

## STATE TAX COMMISSION

of

for redetermination of deficiency  
of franchise tax under Article 9-A  
of the tax law for the fiscal year  
ended January 31, 1966

**It is hereby found:**

(2) It filed a franchise tax report for the fiscal year ended January 31, 1966 and computed a tax of \$139.06, at the rate of one mill on average total capital. The net operating loss deduction claimed on the return resulted in a loss for the year.

(3) On March 3, 1969, the Corporation Tax Bureau issued a notice of deficiency for the fiscal year ended

January 31, 1966, as follows:

Federal taxable income before net operating loss deduction	\$41,868.57
Add: Franchise tax deduction	111.79
Less: Net operating loss deduction allowed	13,976.47
Adjusted entire net income	28,003.89
Tax at 5½%	1,540.21
Tax per report	139.06
Deficiency	\$ 1,401.15

The net operating loss deduction allowed above was computed as follows:

Federal taxable income before net operating loss deduction	\$41,868.57
Less: Carryforward of net operating loss sustained in fiscal year ended January 31, 1961	<u>27,892.10</u>
Balance represents carryforward of net operating loss sustained in fiscal year ended January 31, 1962	\$13,976.47

(4) A timely petition for redetermination of such deficiency was filed.

(5) Section 172 of the 1954 Internal Revenue Code provides for a net operating loss deduction.

(6) Section 208.9(f) of Article 9-A of the tax law provides that:

"A net operating loss deduction shall be allowed which shall be presumably the same as the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four, \* \* \* except that \* \* \*, (2) such deduction shall not include any net operating loss sustained during any taxable year beginning prior to January first, nineteen hundred sixty-one, \* \* \*."

The State Tax Commission hereby

DECIDES:

(A) The net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four in computing federal taxable income for the fiscal year ended January 31, 1966 was \$41,868.57, consisting of a loss sustained during the fiscal year ended

January 31, 1961 plus \$13,976.47 of a loss sustained during the fiscal year ended January 31, 1962.

(B) Under the provisions of clause 2 of Section 208.9(f) of the tax law, the net operating loss for the fiscal year ended January 31, 1961 is required to be excluded in computing the net operating loss deduction allowed for state purposes.

(C) The net operating loss deduction allowed in (3) above is correct and the notice of deficiency issued on March 3, 1969 is affirmed together with additions to tax included therein and interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York

this 12th day of January 1972.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner